

657—35.19 (17A,124B,126,147,155A,205,272C) Hearing procedures in contested cases.

35.19(1) *Presiding officer.* The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

35.19(2) *Objections.* All objections shall be timely made and stated on the record.

35.19(3) *Right of participation or representation.* Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. An attorney or another person authorized by law may represent any party.

35.19(4) *Rights of all parties.* Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

35.19(5) *Disorderly conduct.* The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

35.19(6) *Sequestering witnesses.* Witnesses may be sequestered during the hearing.

35.19(7) *Conduct of hearing.* The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

35.19(8) *Administrative law judge.* A license disciplinary hearing shall be conducted by a qualified administrative law judge and either a quorum of the board or a panel of not less than three pharmacist members of the board. The administrative law judge's duties shall include:

a. Opening the record and receiving appearances.

b. Administering oaths.

c. Entering notice of the hearing into the record.

d. Receiving testimony and exhibits presented by the parties.

e. At the administrative law judge's discretion, interrogating witnesses.

f. Making initial rulings on objections and motions.

g. Closing the hearing.

h. Participating in board or panel deliberations and preparing an order containing findings of fact and conclusions of law in accordance with the board's or panel's decisions.

35.19(9) *Written decision.* In a license disciplinary hearing, the administrative law judge shall prepare in writing the proposed decision of the panel or the final decision of the board, as applicable. Such decisions shall:

a. Be in writing and signed by the board chairperson or the chairperson's designee.

b. Set forth the issues, a brief history of the case, findings of fact, the reasons for the decision, and the actual decision.

c. Be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs.

d. Be delivered to the licensee, permittee, or registrant by one of the methods provided for in subrule 35.5(1).

35.19(10) *Hearings open to the public.* License, permit, or registration disciplinary hearings shall be open to the public except as provided in Iowa Code section 272C.6 and Iowa Code chapter 21.

35.19(11) *Decisions available for public inspection.* Copies of all decisions of the board shall be kept on file for public inspection at the office of the board pursuant to 657—Chapter 14.

35.19(12) *Proceedings recorded.* Oral proceedings in connection with a hearing in a contested case shall be recorded either by mechanized means or by certified shorthand reporters. These records shall be kept in the board office for a period of five years following the date of the hearing.

35.19(13) *Board chairperson.* The chairperson of the board shall have the right to vote in all administrative hearings.

35.19(14) *Final decision.* When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision.

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